IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Stephen J. Brown

Serial No.:   09/665,442

Title: MULTI-USER REMOTE HEALTH MONITORING SYSTEM
                       WITH BIOMETRICS SUPPORT

Filed: September 19, 2000

Attorney Docket No.:   7553.00055 / 00-0920

Examiner: Koppikar, V.

Art Unit: 3262

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

        Applicant requests review of the final rejection in the
above-identified application. No amendments are being filed with
this request. This request is being filed with a Notice of Appeal
by an attorney either of record or acting under 37 CFR 1.34.

REMARKS

        Review is requested for the following reasons:

I.   **THE EXAMINER'S REJECTION OF CLAIMS 47, 55-57, 77, 84, 91, 98,
     105, AND 107-110 UNDER 35 USC 102 AS BEING ANTICIPATED BY US
     PATENT 5,339,821 TO FUJIMOTO REPRESENTS A FIRST CLEAR ERROR.**

Claim 47 recites:

        a central processing unit that is configured
        to generate a script program that collects
        physiological   measurement   data   from   an
        individual and **assigns the script program to
        an individual;**

1

a remote apparatus that is connectable to a measuring device and that receives measurement data according to **a collect command of the script program,** the remote apparatus is connectable to the central processing unit and **transmits** the received measurement data according to a **transmit command of the script program**; and

a workstation connectable to the central processing unit to receive the measurement data.

Accordingly, in order to anticipate claim 47, and the claims that depend therefrom, a reference much teach a central processing unit that generates a script program that includes collect and transmit commands that are used by a remote apparatus connectable to the central processing unit to collect and transmit measurement data, respectively.

In stark contrast, Fujimoto merely discloses a host unit 5 and a medical terminal apparatus 1. Fujimoto does not teach, or even suggest, communication between the host unit 5 and medical terminal apparatus 1, nor the transmission nor collection of measurement data, which takes place according to a script program, of any kind. *Rather, the medical terminal apparatus 1 of Fujimoto displays operational text* to a user such as queries related to whether a user wants to measure blood pressure or pulse, according to col. 4, lines 12-68. Self-contained queries to a user are not the same as a script program that is generated by a central apparatus and used by a remote apparatus, such as the medical terminal apparatus 1, to collect and transmit physiological measurement data. Likewise, *the host unit 5 displays informational text such as "You are overweight: how about getting thin?" and "Your blood pressure is excessively high: take care so as not to take too much salt",* according to col. 8, lines 8-39, and specifically lines 37-39. Self-contained, informational text displayed to a user is not the same as a script program that is generated by a central apparatus, such as the host unit 5, and configured such that, based on collect and/or transmit commands contained in the script program, a remote apparatus that is connectable to the central apparatus collects and/or transmits measurement data respectively. Even if, *assuming arguendo*, that either of the operational text and/or the informational text of Fujimoto is generated by a "script program" which generates text for display to a user viewing a screen, such a "script program" does not meet Applicant's script program which is generated by a central unit and includes collect and transmit commands according to which measurement data is collected and transmitted, respectively, by a remote unit which is connectable to the central unit.

2

Furthermore, as noted above, claim 47 requires that the central processing unit's script program includes a collect command and a transmit command. (Note: the transmit command is not specifically recited at claims 77, 84, 91 and 98, which claims do however recite the collect command.) Specifically, claim 47 requires that the central processing unit-generated script program is provided to a connectable remote apparatus, and in accordance with collect and transmit commands contained in the script program, measurement data is collected and transmitted, respectively. This feature is nowhere taught or suggested by Fujimoto.

The host unit 5 of Fujimoto does not provide operational script to the medical terminal apparatus 1 according to which data is collected and transmitted by the medical terminal apparatus, in contrast with the respective features of Applicant's central processing unit and remote apparatus as set forth at claim 47. In addition, the informational text of the host unit 5 of Fujimoto is not disclosed to, in any way, be associated with actions performed or displayed at the medical terminal apparatus 1. In other words, they are completely independent. The medical terminal apparatus 1 does nothing in response to the informational text of the host unit 5. Fujimoto's medical terminal apparatus instead merely displays its own text on its own display.

Neither the displayed informational text of the host unit 5 nor the displayed operational text of the medical terminal apparatus 1 serve to bring about the communication, transmission or collection of measurement data, which is alternatively described at column 8, lines 8-39 of Fujimoto. While the meaning of the informational text displayed at the host unit 5 of Fujimoto is illustrated as being based on collected and communicated data, that informational text is not in any way described as even influencing the collection or communication of the data. That is, the data is not collected nor transmitted according to the informational text of the host unit 5 (nor the operational text of the medical terminal apparatus 1). The communication of data between the host unit 5 and the medical terminal apparatus 1 is nowhere described by Fujimoto as being in accordance with any collect command nor any transmit command nor any script program of any kind, including any program that may generate the informational text or the operational text, nor in accordance with anything having to do with the informational text or operational text displayed as described by Fujimoto.

For at least the above reasons, Claim 47 is allowable, as are claims 55-57 and 105 which are dependent upon base claim 47.

Claims 77, 84, 91 and 98 are each allowable for substantially the same reasons as claim 47, although these only specifically recite a collect command and not a transmit command. In the methods recited at claims 77, 84, 91 and 98, the measurement data

3

is collected by the remote processing unit according to a collect command of a script program transmitted from the central processing unit to the remote processing unit. Measurement device data is recited as being collected by the remote processing unit upon execution of the collect command of the script program. The collected data is also recited as then being transmitted to the central processing unit upon connection via a communication link. Although information text is described at column 8, lines 8-39 as being displayed according to collected and communications data, the collection of data is not in any way described by Fujimoto as being by a remote unit in accordance with a collect command of a script program transmitted from a central unit to the remote unit. Claims 107-110 are allowable as being based on claims 77, 84, 91 and 98, respectively.

II. THE EXAMINER'S REJECTION OF CLAIMS 48-49, 51-54, 58-62, 78-83, 85-90, 92-97, 99-104 AND 106 UNDER 35 USC 103(A) AS BEING UNPATENTABLE OVER FUJIMOTO IN VIEW OF US PATENT 6,421,633 TO HEINONEN REPRESENTS A SECOND CLEAR ERROR.

First, Heinonen is not prior art. Heinonen was first filed in the United States on May 21, 1998. The present application claims priority to United States patent 6,101,478, which fully supports all of the pending claims and was filed November 21, 1997.

Second, all of claims 48-49, 51-54, 58-62, 78-83, 85-90, 92-97, 99-104 and 106 are allowable for substantially the same reasons set forth above with regard to the failure of Fujimoto to teach the invention set forth at any of claims 47, 77, 84, 91 or 98, and because neither does Heinonen teach of suggest the features discussed above that Fujimoto does not teach or suggest.

Claims 48-49, 51-54 and 58 are allowable as being based on claim 47, for the reasons set forth above, and because neither does Heinonen teach or suggest the features discussed above that Fujimoto does not teach or suggest.

Claim 59 is allowable for substantially the same reasons as claim 47, and because neither does Heinonen teach or suggest the features discussed above that Fujimoto does not teach or suggest. Claims 60-62 and 106 are allowable as being dependent from claim 59.

Claims 78-83 are allowable as being based on claim 77, for the reason set forth above, and because neither does Heinonen teach or suggest the features discussed above that Fujimoto does not teach or suggest.

Claims 85-90 are allowable as being based on claim 84, for the reason set forth above, and because neither does Heinonen teach or

4

suggest the features discussed above that Fujimoto does not teach or suggest.

Claims 92-97 are allowable as being based on claim 91, for the reason set forth above, and because neither does Heinonen teach or suggest the features discussed above that Fujimoto does not teach or suggest.
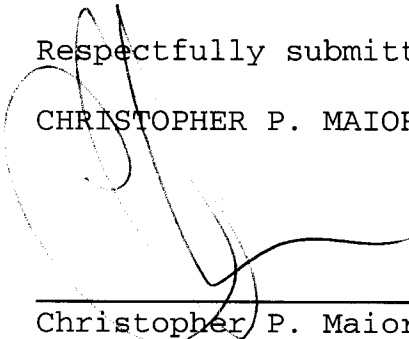
Claims 99-104 are allowable as being based on claim 98, for the reason set forth above, and because neither does Heinonen teach or suggest the features discussed above that Fujimoto does not teach or suggest.

The Examiner is respectfully invited to call the Applicants' representative should it be deemed beneficial to further advance prosecution of the application.

If any additional fees are due, please charge Deposit Account No. 50-0541.

Respectfully submitted,

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